

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

TF-0014/MK
November 8, 2023
9:00 AM

IN RE: X

Case No. 23-22608-CGM-13

STUART LEE HALPERN,

Hon. CECELIA G. MORRIS

Debtor.

X

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Cecelia G. Morris, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, VIA ZOOM on the 8th day of November, 2023 at 9:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or Zoom video conference only. No in-person hearing will be held in the Courthouse. Participants are required to register their appearance at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl> 48 hours before the scheduled hearing.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Thomas C. Frost, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
October 16, 2023

/s/ Thomas C. Frost
THOMAS C. FROST, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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STUART LEE HALPERN,

Hon. CECELIA G. MORRIS

APPLICATION

Debtor.

X

TO THE HONORABLE CECELIA G. MORRIS, U.S. BANKRUPTCY JUDGE:

THOMAS C. FROST, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on August 15, 2023 and, thereafter, THOMAS C. FROST was duly appointed and qualified as Trustee.
2. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to the secured claims as required by 11 U.S.C. §1325(a)(5).
3. The Debtor's proposed Chapter 13 plan must be amended to address all secured creditors consistent with the amounts listed in the filed claims
4. The Debtor is not paying all disposable income into the Plan as required by 11 U.S.C. §1325(b)(1)(B).
5. The Debtor has failed to:
 - a. be examined at the Section 341 Meeting of Creditors as required by 11 U.S.C. §343;
 - b. file with the Court evidence that the Debtor has completed an instructional course concerning personal financial management as required by 11 U.S.C. §1328(g)(1);
 - c. file with the Court a certification that all amounts payable under a domestic support obligation have been paid as required by 11 U.S.C. §1328(a);
 - d. provide the Trustee with copies of filed 2021 and 2022 federal and state tax returns and refunds, if any;
 - e. provide the Trustee with affidavits of contribution for each person contributing to the proposed plan or to payment of expenses of the Debtor's household;
 - f. provide to the Trustee and file with the Court copies of verified monthly operating reports each month; and

- g. provide the Trustee with documentation of the current ownership interest and value of all real property in which the Debtor has an ownership interest.
- 6. The deficiencies as stated above impede the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).
- 7. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
October 16, 2023

/s/ Thomas C. Frost
Thomas C. Frost, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Case No: 23-22608-CGM-13

IN RE:

STUART LEE HALPERN,

**CERTIFICATE OF SERVICE
BY MAIL**

Debtor.

_____X

This is to certify that I, Nancy Alexander, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

STUART LEE HALPERN
7 LORRAINE DRIVE
EASTCHESTER, NY 10709

STEVEN K EISENBERG, ESQ.
STERN & EISENBERG, PC
1581 MAIN STREET, SUITE 200
WARRINGTON, PA 18976

WESLEY T KOZENY, ESQ.
BONIAL & ASSOCIATES, P.C.
12400 OLIVE BLVD., SUITE 555
ST. LOUIS, MO 63141

This October 16, 2023

/s/Nancy Alexander
Nancy Alexander, Paralegal
Office of the Standing Chapter 13 Trustee
Thomas C. Frost, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CASE NO: 23-22608-CGM-13
Hon. CECELIA G. MORRIS

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

STUART LEE HALPERN,

Debtor.

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**THOMAS C. FROST
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
